

Dkt. 04045

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**



In re Application of:

JEAN-MARC BERAUD

Serial No.: 10/809,799/

Filed: March 26, 2004

Group Art Unit: 3773

Examiner: D. Erezo

For: INTRODUCER AND PERFORATOR GUIDE FOR  
PLACING A TAPE IN THE HUMAN BODY

**REQUEST TO WITHDRAW HOLDING OF ABANDONMENT**

Honorable Commissioner for Patents  
P.O. Box 1450  
Alexandria, Virginia 223113-1450

Sir:

The attached Notice of Abandonment was mailed on July 10, 2008, citing the reason for the holding as Applicant's failure to timely file a proper reply to the Office letter mailed on December 27, 2007.

A response to the Office letter of December 27, 2007, was filed on May 22, 2008. Attached hereto is a full copy of the reply, including a request for extension of time for two months, and a receipt card stamped on May 22, 2008. A copy of the credit card payment form PTO-2038 is not attached, but it can be verified that the fee for the extension of time in

connection with this application has been charged to the account of the undersigned.

As evidence has now been presented that a timely reply to the Office action was filed, withdrawal of the holding of abandonment is requested.

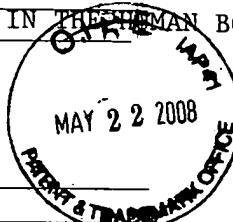
Respectfully submitted,



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Due Date May 27, 2008 Docket No. 04045/BEAU/IS/cd  
Applicant Jean-Marc BERAUD Mail Room XX Group   
SN/PN 10/808,799 Other \_\_\_\_\_  
Title INTRODUCER AND PERFORMANCE GUIDE FOR PLACING A TAPE IN THE SHUMAN BODY



Declaration  Assignment **DOCKETED**  
 Priority Document(s) (# )

IDS 1499 # of Docs: \_\_\_\_\_ Request for Corrected Filing Receipt  
 Restriction Response XX OA Response  
 Preliminary Amendment Letter \_\_\_\_\_  
 Supplemental Amendment AAFR \_\_\_\_\_  
 Notice of Appeal Appeal Brief \_\_\_\_\_  
 Petition (type) \_\_\_\_\_  
 Request for 2 month EOT Request for Certificate of Correction  
 Drawings - No. of Sheets \_\_\_\_\_ Notice to File Missing Parts  
 RCE Transmittal Form Notice to File Missing Requirements  
 Fees \$ 460.00 For two month extension fee  
 Check \_\_\_\_\_ Deposit Account \_\_\_\_\_ Credit Card Form PTO-2038 XX  
 Other \_\_\_\_\_

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PETITION UNDER 37 CFR § 1.136

Honorable Commissioner for Patents  
P.O. Box 1450  
Alexandria, Virginia 22313-1450

Sir:

Petition is herein made under the provisions of 37 CFR 1.136 for an extension of time for two months for response to the Office action of December 27, 2008.

The appropriate fee set forth in 37 CFR 1.17 is paid herewith by credit card (Form PTO-2038). Any fees not accepted by the credit card amount shown on the Form PTO-2038 may be charged to Deposit Account 04-0753.

Respectfully submitted,

Ira J. Schultz  
Registration No. 28666



Dkt. 04045

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of:

Group Art Unit: 3773

JEAN-MARIE BERNAUD

Examiner: D. Erezo

Serial No.: 10/809,799

Filed: March 26, 2004

For: INTRODUCER AND PERFORATOR GUIDE FOR  
PLACING A TAPE IN THE HUMAN BODY

AMENDMENT

Honorable Commissioner for Patents  
PO Box 1450  
Alexandria, VA 22313-1450

Sir:

In response to the Office Action mailed December 27, 2007, please amend the above-identified application as follows:

**A new Abstract** is found on page 2 of this paper.

**Amendments to the Specification** are found on page 3 of this paper.

**Amendments to the Claims** are reflected in the listing of claims which begins on page 4 of this paper.

**Remarks** begin on page 7 of this paper.

**ABSTRACT**

A device for placing a reinforcing tape in a tissue of the human body includes an introducer having an elongated flexible body with a pulling device at each of both ends of the body, a cavity between the ends for receiving the tape, and at least one aperture provided in the wall of the cavity and intended for the passage of a cutting tool. This device is applicable to the treatment of cystoceles.

IN THE SPECIFICATION:

Page 1, above line 1, insert:

Background of the Invention

Page 2, between lines 4 and 5, insert:

Summary of the Invention

Page 5, between lines 12 and 13, insert:

Brief Description of the Drawings

Page 6, between lines 16 and 17, insert:

Description of the Preferred Embodiments

IN THE CLAIMS:

The following is a complete listing of claims in this application.

Claims 1-16 (canceled).

17. (new) A device for placing a reinforcing tape in a tissue of the human body, comprising an introducer including:  
an elongated flexible body extending along a longitudinal axis and having two ends, each of said ends provided with a pulling means;

a cavity provided in said flexible body between said ends for receiving a reinforcing tape, the cavity defined by walls within the body; and

means for cutting the body into two portions separable by pulling on the pulling means, the cutting means comprising at least one aperture provided in the flexible body into the cavity and extending transversally to the longitudinal axis, the aperture affecting more than half of the circumference of the walls of the cavity, so as to leave only a connecting wall between portions of the flexible body delimited by the aperture, the aperture being constructed and arranged for passage of a cutting tool between the tape received in the cavity and the connecting wall.

18. (new) The device according to claim 17, wherein the aperture is constructed and arranged to allow placement of the tape in the cavity.

19. (new) The device according to claim 17, wherein the cutting means comprises at least two apertures positioned facing each other.

20. (new) The device according to claim 17, wherein the walls defining the cavity have a series of perforations for sterilization.

21. (new) The device according to claim 17, wherein the pulling means comprises semi-rigid needles integral with the

ends of the elongated body.

22. (new) The device according to claim 17, additionally comprising a tape freely positioned inside the cavity.

23. (new) The device according to claim 17, additionally comprising an elongated perforator guide or trocar, having a first end arranged for introduction into the body of a patient and an opposite end provided with a handle.

24. (new) The device according to claim 23, wherein the perforator guide has a portion having an arcuate shape in a plane.

25. (new) The device according to claim 24, wherein the arcuate portion of the perforator guide extends over an angular sector larger than 140°.

26. (new) The device according to claim 25, wherein the arcuate portion of the perforator guide extends over an angular sector between 150° and 170°.

27. (new) The device according to claim 25, wherein the arcuate portion of the perforator guide has a radius of curvature between 30 and 60 mm for a portion of the perforator guide extending between the handle and the first end.

28. (new) The device according to claim 27, wherein the radius of curvature is between 40 and 50 mm.

29. (new) The device according to claim 24, wherein the perforator guide has a helicoidal shape at the first end.

30. (new) The device according to claim 29, wherein the shape is a portion of a helicoidal coil extending over an angle between 180° and 360°.

31. (new) The device according to claim 30, wherein the shape is a portion of a helicoidal coil extending over an angle between 255° and 270°.

32. (new) The device according to claim 30, wherein the coil of the perforator guide has a radius of curvature between 20 mm and 40 mm with a pitch between 15 mm and 25 mm.

33. (new) The device according to claim 24, further comprising a removable tubular sleeve with a complementary shape to that of the perforator guide, constructed and arranged for engagement onto the perforator guide and to remain in the body of the patient after removing the perforator guide, so as to define a tunnel for the passage of pulling means of the introducer.

34. (new) The device according to claim 33, wherein the tubular sleeve has a length greater than a useful length of the perforator guide and comprises a side aperture for placement of the perforator guide, the side aperture being located at a distance from a free end of the sleeve less than or equal to the useful length of the perforator guide.

REMARKS

The Office action of December 27, 2007, has been carefully considered.

Objection has been raised to the abstract and specification, and the abstract and specification have now been amended consistent with the requirements set forth in the Office action.

Claims 5 and 7-16 have been rejected under 35 USC 112, second paragraph. The claims have now been canceled and replaced by a new set of Claims 17 through 34 which have been written in proper form for U.S. practice, the new claims avoiding the objections made in the Office action. Withdrawal of this rejection is requested.

Claims 1-5, 7 and 8 have been rejected under 35 USC 102(e) as anticipated by Staskin et al, and Claim 6 has been rejected under 35 USC 103(a) as obvious over Staskin et al.

New Claim 17 is directed to a device for placing a reinforcing tape in a tissue of the human body, comprising an introducer including an elongated flexible body extending along the longitudinal axis and having two ends, each of the ends provided with a pulling means, a cavity provided in the flexible body between the ends for receiving a reinforcing tape and which is defined by walls within the body, and means for cutting the body into two portions separable by pulling on the pulling means. The cutting means comprises at least one aperture provided in the flexible body into the cavity and extending transversely to the longitudinal axis. The aperture affects more than half of the circumference of the walls of the cavity, so as to leave only a connecting wall between portions of the flexible body delimited by the aperture. The aperture is constructed and arranged for passage of a cutting tool between the tape and the connecting wall.

The invention as claimed is clearly distinguished from

the introducer disclosed by Staskin et al. In Staskin et al, the introducer shown is telescoping, and includes two separate parts. However, as cited in the Office action, at the top of column 17 Staskin et al states that "other configurations of the sheath 44 are within the scope of the present invention, in particular, the sheath may be unitary as opposed to telescoping, with perforations, holes, scores or tear lines designed to allow separation and removal of the sheath 44."

Applicant submits that the claimed aperture does not fall within the generic definition of "perforations, holes, scores or tear lines" set forth in Staskin et al. In particular, the aperture must affect more than half of the circumference of the walls of the cavity, and leave only a connecting wall between portions of the flexible body delimited by the aperture. Moreover, the aperture must be constructed to permit passage of a cutting tool between the tape and the connecting wall. Perforations, holes, scores and tear lines do not affect more than half of the circumference of the walls of the cavity, and do not permit passage of a cutting tool. The claimed aperture structure is necessary to permit the introducer to be easily withdrawn from the patient's body, without risk of damaging the tape.

Withdrawal of this rejection is requested.

Claims 8-16 have been rejected under 35 USC 103 over Staskin et al in view of Gellman et al. Staskin et al has been discussed in detail above.

Gellman et al has been cited to show a curved guide in Figure 54, which is used to deliver a sling implant. The Office action alleges that it would have been obvious to utilize the delivery device of Gellman et al with the inserter of Staskin et al.

Nevertheless, Gellman et al does not cure the defects of Staskin et al, and withdrawal of this rejection is requested.

In view of the foregoing amendments and remarks, Applicant submits that the present application is now in condition for allowance. An early allowance of the application with amended claims is earnestly solicited.

Respectfully submitted,



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